

**To:** CN=Betsaida Alcantara/OU=DC/O=USEPA/C=US@EPA[]  
**Cc:** CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]  
**Bcc:** []  
**From:** CN=Gregory Peck/OU=DC/O=USEPA/C=US  
**Sent:** Wed 9/16/2009 5:06:13 PM  
**Subject:** Re: Fw: Pebble mine

# Ex. 5 - Deliberative

Greg

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Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

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**From:** Betsaida Alcantara/DC/USEPA/US  
**To:** Gregory Peck/DC/USEPA/US@EPA  
**Date:** 09/16/2009 12:57 PM  
**Subject:** Fw: Pebble mine

## Ex. 5 - Deliberative

----- Forwarded by Betsaida Alcantara/DC/USEPA/US on 09/16/2009 12:57 PM -----

**From:** Bob Sussman/DC/USEPA/US  
**To:** Betsaida Alcantara/DC/USEPA/US@EPA  
**Cc:** Adora Andy/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
**Date:** 09/16/2009 12:55 PM  
**Subject:** re: Pebble mine

## Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

**From:** Betsaida Alcantara/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA

Cc: Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Date: 09/16/2009 12:41 PM  
Subject: re: Pebble mine

## Ex. 5 - Deliberative

1. We were told that under Section 404(c) of the Clean Water Act, Congress gave EPA the ability to veto a Corps permit, should EPA determine the Corps made an improper decision. Under this authority, we were told EPA could also pre-emptively stop a project.

- does EPA indeed have the ability to veto a Corps permit or permits?
- does EPA have the ability to pre-emptively stop a project? How is that different from vetoing a permit?
- has this ever been done before? When? If so, did the permit(s) pertain to a mining project?
- what would constitute grounds to veto a Corps permit?

2. We were told that under NEPA, EPA reviews all EIS' to rate the project and the quality of the EIS document and that EPA could "encourage" a supplemental EIS if it gave the initial EIS an "adverse rating."

- does EPA have this ability to rate the EIS even if it is NOT the lead agency?
- will EPA be rating the quality of Pebble's EIS, if there is one?
- can EPA demand a supplemental EIS? Or just "encourage" one?
- what constitutes an "adverse rating"?
- is the supplemental EIS then done by the same agency who did the initial one (in this case, likely the Corps?)
- has EPA ever asked for a supplemental EIS? When? If so, did it pertain to a mining project?

### Ex. 5 - Deliberative

<http://www.epa.gov/owow/wetlands/404c/>

<http://yosemite.epa.gov/R10/ECOCOMM.NSF/b9d67f6000e5b58888256e5900642421/e68df0446ae6dae b88256c3d006599fa!OpenDocument>